

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

DOMONIC RONALDO MALONE,

Case No.: 2:18-cv-01994-JAD-NJK

Plaintiff

JAMES DZURENDÁ et al.

Order Dismissing Action

Defendants

Plaintiff Domonic Ronaldo Malone brings this civil-rights case under § 1983 for events he alleges occurred during his incarceration at High Desert State Prison.¹ On October 28, 2019, I ordered Malone to file a second-amended complaint by November 25, 2019.² I expressly warned him that his failure to timely comply with the order would result in the dismissal of this case.³ The deadline has passed, and Malone has not filed a second-amended complaint.

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case.⁴ A court may dismiss an action with prejudice based on a party’s failure to prosecute an action, failure to obey a court order, or failure to comply with local rules.⁵ In determining whether to

¹ ECF No. 3 (first amended complaint).

² ECF No. 4 (order).

3 *Id.*

⁴ *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986).

⁵ See *Ghazali v. Moran*, 46 F.3d 52, 53–54 (9th Cir. 1995) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260–61 (9th Cir. 1992) (dismissal for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440–41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring pro se plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of prosecution and failure to comply with local rules).

1 dismiss an action for lack of prosecution, failure to obey a court order, or failure to comply with
2 local rules, the court must consider several factors: (1) the public's interest in expeditious
3 resolution of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the
4 defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the
5 availability of less drastic alternatives.⁶

6 I find that the first two factors—the public's interest in expeditiously resolving the
7 litigation and the court's interest in managing the docket—weigh in favor of dismissing this case.
8 The risk-of-prejudice factor also weighs in favor of dismissal because a presumption of injury
9 arises from the occurrence of unreasonable delay in filing a pleading ordered by the court or
10 prosecuting an action.⁷ The fourth factor is greatly outweighed by the factors in favor of
11 dismissal, and a court's warning to a party that his failure to obey the court's order will result in
12 dismissal satisfies the consideration-of-alternatives requirement.⁸ Malone was warned that his
13 case would be dismissed with prejudice if he failed to file a second-amended complaint by
14 November 25, 2019.⁹ So, Malone had adequate warning that his failure to file a second-amended
15 complaint by the deadline would result in this case's dismissal.

16 Accordingly, IT IS HEREBY ORDERED that **this action is DISMISSED** with prejudice
17 based on Malone's failure to file a second-amended complaint in compliance with this court's
18 October 28, 2019, order;

19 IT IS FURTHER ORDERED that Malone's application for leave to proceed in forma
20 pauperis [ECF No. 1] is **DENIED** as moot; and

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24 ⁶ *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423–24; *Malone*, 833 F.2d at 130;
25 *Ferdik*, 963 F.2d at 1260–61; *Ghazali*, 46 F.3d at 53.

26 ⁷ See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976).

27 ⁸ *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132–33; *Henderson*, 779 F.2d at 1424.

28 ⁹ ECF No. 4 (order).

The Clerk of Court is directed to ENTER JUDGMENT accordingly and CLOSE THIS CASE. 

U.S. District Judge Jennifer A. Dorsey
Dated: December 12, 2019